

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA	)	
	)	
v.	)	CRIMINAL NO. 04-CR-387
	)	
KISHAN SINGH,	)	
	)	
Defendant.	)	

STATEMENT OF FACTS

Were the United States to proceed to trial in this case, it would provide testimonial and documentary evidence to prove beyond a reasonable doubt that, from approximately April 2003 through November 2003, defendant Kishan Singh (the "Defendant") did willfully infringe the copyrights of copyrighted works, by reproduction and distribution during a 180 day period of ten (10) or more copies of one (1) or more copyrighted works which had a retail value of \$2,500 or more, in violation of federal criminal copyright laws, Title 17 United States Code, Section 506(a)(1) and Title 18 United States Code, Section 2319(b)(1). Specifically, the testimonial and documentary evidence would establish, at a minimum, the following facts:

1. The Defendant's willful conduct included his unauthorized reproduction and distribution of copyrighted works. Between April 2003 and November 2003, the Defendant operated an Internet website that provided Internet users with the ability to download for a fee, copies of software without the authorization of the copyright holder.

2. On or about September 11, 2003, FBI agents from a computer located in Falls Church, Virginia, in the Eastern District of Virginia, accessed the defendant's website

identified by Internet Protocol address 64.3.36.92, which contained hundreds of unauthorized reproductions of copyright protected commercial software.

3. On September 26, 2003, pursuant to the instructions on the website, FBI agents paid \$20.00 to the defendant via his Paypal account, kish25@hotmail.com. In return for the payment, agents were permitted to download up to 3.5 gigabytes of pirated or infringing copyright protected software within a three month period of time from the defendant's website.

4. On October 1, 2003, FBI agents received an email from the defendant indicating that the \$20.00 payment had been received. The email from the defendant's hotmail account, [kensingh89@hotmail.com](mailto:kensingh89@hotmail.com), also provided specific instructions on accessing the website, including providing a username, password and port number.

5. From October 1 through November 6, 2003, agents accessed the defendant's web site from a computer located in Falls Church, Virginia, in the Eastern District of Virginia, using the account access information provided by the defendant. FBI agents downloaded fifteen (15) pirated software programs from the defendant's website, including Autocad2004; Mastercam; Softimage; StudioMax v5.1 update; 3D StudioMax v4.0; Borland v7 Studio Enterprise; Borland C++ Builder 7 Enterprise; Delphi v6 ISO; Autodesk Revit v4.5; Adobe Photoshop v7.0 Retail Full ISO; Bentley Microstation v8.0; Newscutter XP v2.1.1; Raster Design v3; Visio 2002 Pro; and Font Folio v9.0 ISO.

6. On November 18, 2003, FBI agents seized a number of the Defendant's computers from his residence at 9104 Fowler Lane, Lanham, Maryland. Forensic analysis of the seized computers indicated that the equipment was used to for the unauthorized reproduction and distribution of copyright protected software.

7. A Representative from the Business Software Alliance (“BSA”) examined the aforementioned fifteen (15) software programs downloaded by FBI agents and computer logs from the Defendant’s computers. BSA is a nonprofit trade association representing thirteen major software and hardware developers including Microsoft Corporation, Apple Computer, Inc., Macromedia, Inc., Hewlett-Packard Co. and Adobe Systems, Inc. The BSA representative determined that the downloaded programs were unauthorized or pirated copies of BSA member companies copyright protected software.

8. The BSA representative stated that the total retail value of the pirated software contained on the Defendant’s computer equipment was approximately \$79,954 and that Defendant Kishan Singh was not an authorized retailer of their clients’ software programs. Furthermore, BSA confirmed that the pirated software was “cracked” versions of the software that had their copyright protections removed or that included pirated serial numbers in an attached text file.

9. The Defendant voluntarily provided agents with a signed statement acknowledging that he provided copies of copyright protected software on a website he operated from his home, which illegally reproduced and distributed copyright protected software.

10. The Defendant was aware that his copyright infringement was a violation of law.

11. The Defendant acknowledges that he caused the reproduction and distribution of more than 10 copies of one or more copyrighted works within a 180-day period having a total retail value of more than \$2,500, for private financial gain.

12. The Defendant admits that his conduct caused an infringement amount of more than \$70,000 but less than \$120,000.

Respectfully submitted,

Paul J. McNulty  
United States Attorney

By: \_\_\_\_\_  
Scott Stein  
Assistant United States Attorney  
Clement McGovern  
Trial Attorney, U.S. Department of Justice  
Computer Crime and Intellectual Property Section

After consulting with my attorney and pursuant to the plea agreement entered into this day between the defendant, Kishan Singh and the United States, I hereby stipulate that the above Statement of Facts is true and accurate, and that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.

---

Kishan Singh

I am Kishan Singh's attorney. I have carefully reviewed the above Statement of Facts with him. To my knowledge, his decision to stipulate to these facts is an informed and voluntary one.

---

Ivan Davis, Esquire  
Attorney for Kishan Singh